UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/653,764	09/01/2000	Sudhindra P. Herle	SAMS01-00090	6143

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EXAMINER
SIMITOSKI, MICHAEL J

ART UNIT	PAPER NUMBER
2134	3

DATE MAILED: 03/24/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. ●	Applicant(s)
	09/653,764	HERLE, SUDHINDRA P.
	Examiner	Art Unit
	Michael J Simitoski	2134

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) FROM
THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *01 September 2000*.

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-24* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-24* is/are rejected.

7)☒ Claim(s) *4 and 7* is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *01 September 2000* is/are: a)☐ accepted or b)☒ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

NORMAN M. WRIGHT
PRIMARY EXAMINER

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
    Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.

5)☐ Notice of Informal Patent Application (PTO-152)

6)☐ Other: _____.

DETAILED ACTION

1.   Claims 1-24 are pending.

Drawings

2.   New corrected drawings are required in this application because Figures 2 and 3 contain text of inconsistent size and format. Applicant is advised to employ the services of a competent patent draftsperson outside the Office, as the U.S. Patent and Trademark Office no longer prepares new drawings. The corrected drawings are required in reply to the Office action to avoid abandonment of the application. The requirement for corrected drawings will not be held in abeyance.

Specification

3.   The lengthy specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

Claim Objections

4.   Claims 4 & 7 are objected to because of the following informalities:

a.   Claims 4 & 7 depend upon themselves.

For the purposes of this office action, claim 4 is understood to depend from claim 3 and claim 7 is understood to depend from claim 6. Appropriate correction is required.

Claim Rejections - 35 USC § 112

5.   The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6.   Claims 3-7, 11-15 & 19-23 are rejected under 35 U.S.C. 112, second paragraph, as being

indefinite for failing to particularly point out and distinctly claim the subject matter which

applicant regards as the invention. Regarding claims 3, 4, 6, 11, 12, 14, 19, 20 & 22, the claims

recite the limitations that the packets contain a layer (IP, TCP, etc.), however, a layer is a well-

defined abstraction concept in networks and other models, rather than a specific piece of data,

such as one that could be included in a packet. Claims 5, 7, 13, 15, 21 & 23 are rejected based

on their dependence on rejected claims above. *For the purposes of this office action, limitations*

concerning a packet containing a layer are understood to mean that the packet contains

information used by that particular layer in a network.

Claim Rejections - 35 USC § 103

7.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

8.   Claims 1, 3-8, 9, 11-16, 17 & 19-24 are rejected under 35 U.S.C. 103(a) as being

unpatentable over U.S. Patent 6,587,684 to Hsu et al. (Hsu) in view of "TIA/EIA/IS-683-A:

Over-the-Air Service Provisioning of Mobile Stations in Spread Spectrum Systems" (IS683A),

May 1998.

Regarding claim 1, Hsu discloses a mobile station/digital telephone communicating with

a plurality of base stations in a wireless network (Fig. 1 & col. 2 lines 8-30), and receiving at

least one of a software program, a software correction patch and provisioning data (col. 3 lines

55-58 & col. 4 lines 17-40) from a server associated with said wireless network (col. 4 lines 1-9),

the mobile station/digital telephone comprising an RF transceiver (Fig. 3) capable of receiving

wireless messages from a plurality of base stations and converting said received wireless

messages to a plurality of Internet protocol packets (Fig. 3, col. 6 lines 6-25 & 43-56), an

encryption controller capable of converting said IP packets from an encrypted format to a

decrypted format (col. 15 lines 7-40 & col. 16 lines 18-25) and a data burst message protocol

controller/IWF-MSC capable of converting decrypted packets to at least one message (col. 6

lines 6-54). While Hsu does not explicitly disclose a physical encryption controller, it is inherent

that one exists to establish the "secure link" stated in col. 15 lines 7-40 to "recover" the payload

as stated in col. 16 lines 18-25. Hsu discloses a CDMA transceiver (Fig. 3, col. 2 lines 7-31 &

col. 12 lines 53-67), but does not explicitly disclose the data burst message protocol controller

capable of converting said decrypted IP packets to at least one *data burst* message. However,

IS683A teaches that in CDMA, messages are sent in the fields of Data Burst Messages (page 2-

17, §2.3). Therefore, it would have been obvious to one having ordinary skill in the art at the

time the invention was made to include a data burst message protocol controller to convert the IP

packets to data burst messages. One of ordinary skill in the art would have been motivated to

perform such a modification to conform to the CDMA standards known in the art, as taught by

IS683A (page 2-17, §2.3).

Regarding claims 3, 11 & 19, as best understood, Hsu discloses each of the IP packets

comprising information usable by an IP (network) layer and IP packet payload/IP datagram (col.

8 line 49 – col. 11 line 50 & col. 12 lines 8-32).

Regarding claims 4, 12 & 20, as best understood, Hsu discloses communicating packets

using the TCP/IP protocol (col. 8 line 49 – col. 11 line 50 & col. 12 lines 8-32).

Regarding claims 5, 7, 13, 15, 21 & 23, as best understood and as modified above, Hsu

discloses an over-the-air service-provisioning payload associated with the transmission/burst

message (col. 8 line 49 – col. 11 line 50 & col. 13 lines 25-67).

Regarding claims 6, 14 & 22, as best understood, Hsu discloses each of the IP packets

comprising information usable by an IP (network) layer and IP packet payload/IP datagram and

communicating packets using the TCP/IP protocol (col. 8 line 49 – col. 11 line 50 & col. 12 lines

8-32).

Regarding claims 8, 16 & 24, Hsu discloses converting decrypted packets (col. 15 lines

7-29) to a data burst message according to the IS-683-A protocol (col. 7 lines 62-67).

Regarding claims 9 & 17, Hsu discloses a system for secure over-the-air administration

of a wireless mobile station/digital telephone (Fig. 1 #16) via a base station (Fig. 1 # 14a) in a

wireless network (Fig. 1), said system capable of transmitting to said wireless mobile

station/digital telephone at least one of a software program, a software correction patch and

provisioning data from a server associated with said wireless network (Figs. 1-2 & col. 4 lines

17-54), said system comprising a data burst message protocol controller/IWF-MSC (Fig. 1)

capable of receiving and converting said at least one of a software program, a software correction

patch and provisioning data into at least one message (col. 6 lines 6-54), an encryption controller

capable of converting said at least one message into a plurality of encrypted IP packets (col. 15

lines 7-40) and an RF transceiver (Fig. 1 #14a) to convert IP packets into at least one wireless

message and transmitting said at least one wireless message to said wireless mobile

station/digital telephone (col. 5 lines 50-64). While Hsu does not explicitly disclose a physical

encryption controller, it is inherent that one exists to establish the "secure link" stated in col. 15

lines 7-40 to "recover" the payload as stated in col. 16 lines 18-25. Hsu discloses a CDMA

transceiver (col. 6 lines 6-16 & col. 12 lines 53-67), but does not explicitly disclose the data burst

message protocol controller capable of converting said decrypted IP packets to at least one *data

burst* message. However, IS683A teaches that in CDMA, messages are sent in the fields of Data

Burst Messages (page 2-17, §2.3). Therefore, it would have been obvious to one having ordinary

skill in the art at the time the invention was made to include a data burst message protocol

controller to convert the IP packets to data burst messages. One of ordinary skill in the art would

have been motivated to perform such a modification to conform to the CDMA standards known

in the art, as taught by IS683A (page 2-17, §2.3).

9.   Claims 2, 10 & 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hsu in

view of IS683A, as applied to claims 1, 9 & 17 above, in further view of U.S. Patent 6,609,148

to Salo et al. (Salo). Hsu discloses a system, as modified above, but lacks explicit disclosure of

IP sec, SSH, SSL or PPTP. However, Salo teaches that the IP Sec standard is known in the art

and can provide encryption at the packet-processing layer (col. 13 lines 14-20). Therefore, it

would have been obvious to one having ordinary skill in the art at the time the invention was made to encrypt and decrypt packets according to the IP Sec tunneling protocol. One of ordinary skill in the art would have been motivated to perform such a modification as it was known in the art to provide packet encryption, as taught by Salo (col. 13 lines 14-20).

Conclusion

10.   The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The '235', 362', '657, '260 & '922 references were cited for relevance in the art of provisioning/programming multiple devices using encryption and SMS, PPTP, OTASP and TCP.

11.   Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael J. Simitoski whose telephone number is (703)305-8191. The examiner can normally be reached on Monday - Thursday, 6:45 a.m. - 4:15 p.m.. The examiner can also be reached on alternate Fridays from 6:45 a.m. – 3:15 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory Morse can be reached on (703)308-4789.

Any response to this action should be mailed to:
Commissioner of Patents and Trademarks
Washington, DC 20231
Or faxed to:
(703)746-7239 (for formal communications intended for entry)
Or:
(703)746-7240 (for informal or draft communications, please label "PROPOSED" or "DRAFT")
Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA 22202, Fourth Floor (Receptionist).
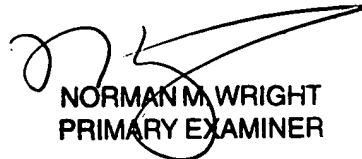
Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-9000.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

MJS
March 9, 2004

NORMAN M. WRIGHT
PRIMARY EXAMINER